



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Maintain public security-** A uniform system of disposal for motor vehicles is likely to diminish automotive theft.

**Provide limited government-** Adds new reporting requirements and restrictions for salvage auto dealers and secondary metals recyclers.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

Subsection (2) of s. 319.30, F.S., requires that when a motor vehicle or mobile home is to be dismantled, destroyed, or altered so significantly as to no longer be the motor vehicle or mobile home described in the certificate of title, the owners as listed on the title must surrender the title to DHSMV for cancellation. Violation of the requirement constitutes a second degree misdemeanor.

Currently, when a vehicle is sold to a salvage dealer, the statute requires that a vehicle must be accompanied by the:

- certificate of title,
- salvage certificate of title, or a
- vehicle certificate of destruction issued by DHSMV.

Alternatively, if the title has been surrendered to the DHSMV, a notarized affidavit from the vehicle owner attesting to the surrender of the title must accompany the vehicle. Falsification of the required affidavit constitutes a third degree felony. The affidavits require no verifying documentation, are easily falsified, and there are anecdotal indications that car thieves are taking advantage of this “loophole.”<sup>1</sup>

Salvage motor vehicle dealers are required to record the name, address, and personal identification card number of any person delivering motor vehicles, derelicts and major parts.<sup>2</sup> Similar to the requirements of salvage motor vehicle dealer, when a motor vehicle, derelict, or major part is purchased by a secondary metals recycler<sup>3</sup>, the recycler must record the name, address, and personal identification card number of any person delivering the vehicle, derelict or part, and must obtain from the seller:

- valid certificate of title
- valid certificate of destruction issued by DHSMV
- If neither of the above is available, an affidavit signed by the seller stating that the certificate of title was returned to DHSMV.

Both salvage auto dealers and secondary metals recyclers are required to return all certificates of title to DHSMV each month. All certificates of destruction, affidavits, and all other required information must be retained by the dealer or recycler for three years.<sup>4</sup>

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<sup>1</sup> St. Petersburg Times article, “Cars stolen with crushing twist”, by Abhi Raghunathan: 12/19/07

<sup>2</sup> Section 319.30 (6), F.S.

<sup>3</sup> S. 538.18 (8) F.S. defines “secondary metals recycler” as an individual who is engaged, from a fixed location or otherwise, in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

<sup>4</sup> Section 319.30 (8)(b) F.S.

Currently, statutes do not require notification to DHSMV or delivery of the original derelict motor vehicle certificate to an agent of the department within 24 hours after receiving the derelict motor vehicle.

### **Effect of Proposed Changes**

This bill amends subsection (1) of s. 319.30, F.S., defining “certificate of title,” “salvage certificate of title” and “derelict motor vehicle”.

This bill also creates and defines “derelict motor vehicle certificate” to take the place of the affidavit when a certificate of title, salvage certificate of title, or a certificate of destruction is not available. A derelict motor vehicle is defined in the bill as a motor vehicle with or without all major parts, that is valued under \$1,000, is at least 10 years old, and is in such condition that its highest value is in its sale, transport, or delivery to a salvage yard or recycler. The derelict motor vehicle certificate shall be completed by the owner of the motor vehicle or mobile home, the owner's authorized transporter, and the salvage motor vehicle dealer or secondary metals recycler at the time of sale, transport, or delivery. Upon receiving the “derelict motor vehicle certificate”, salvage motor vehicle dealers and recyclers are required to notify DHSMV within 24 hours after receiving the vehicle. Salvage auto dealers and secondary metal recyclers must also secure the vehicle for three full business days, excluding weekends and holidays, before it can be destroyed or dismantled.

The bill also further defines the penalties associated with violation of the statute. An individual or dealer commits a third degree felony if that person:

- sells, transports, delivers, purchases, or receives a motor vehicle, recreational motor vehicle, mobile home, or derelict motor vehicle without obtaining a certificate of title, salvage certificate of title, certificate of destruction, or derelict motor vehicle certificate;
- enters false or fictitious information on a derelict motor vehicle certificate;
- does not complete the derelict motor vehicle certificate as required or does not make the required notification; or
- destroys or dismantles a derelict motor vehicle without waiting the required three full business days.

The list of documents which salvage auto dealers and secondary metals recyclers are required to return to DHSMV each month, is expanded to include salvage certificates of title. Such certificates may be transmitted electronically. DHSMV may adopt rules and establish fees as necessary for electronic submission. Copies of all certificates of title, salvage certificates of title, certificates of destruction, derelict motor vehicle certificates and all other required information are to be retained for three years.

The DHSMV, its agent, or any law enforcement officer may issue a hold notice to a salvage auto dealer or secondary metals recycler whenever there is reason to believe a stolen or fraudulently titled motor vehicle, mobile home, recreational vehicle, salvage motor vehicle, or derelict motor vehicle is in the possession of the dealer or recycler. The hold may not exceed 5 business days, excluding weekends and holidays, and the dealer or recycler may not dismantle or destroy the item until the hold is released or the 5 days has passed. DHSMV shall charge a fee of \$3 for each derelict motor vehicle certificate delivered to the department or one of its agents for processing. These fees would be deposited into the Highway Safety Operating Trust Fund.

This bill would have a small fiscal and operational impact. Procedures would have to be updated as well as programming to DHSMV's Motor Vehicle database. A new “non-secure” certificate for derelict vehicles form would have to be created.

### **C. SECTION DIRECTORY:**

Section 1- Amends s. 319.30, F.S., to add definitions, revise definitions, and require a derelict motor vehicle certificate from salvage auto dealers and secondary metals recyclers when other means of title verification are unavailable. Provides penalties.

Section 2- Corrects a cross reference within s. 319.14, F.S.

Section 3- Provides an effective date of October 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

DHSMV would receive a \$3 fee for each derelict motor vehicle certificate collected from salvage auto dealers and secondary metals recyclers. These fees would be deposited into the Highway Safety Operating Trust Fund.

#### 2. Expenditures:

This bill would require contracted programming modifications to DHSMV's Motor Vehicle Software systems at a cost of \$35,000.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

County tax collector offices would distribute and receive "certificates" for derelict vehicles to then cancel the title record and collect a service fee. Tax Collector offices would retain their \$2.50 service fee for each transaction conducted.<sup>5</sup>

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A derelict motor vehicle certificate would provide a motor vehicle owner an additional option to dispose of a vehicle valued under \$1,000. They would pay a \$5.50 fee for the certificate (\$3 to the Department and \$2.50 to the Tax Collector as a service fee).

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

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<sup>5</sup> DHSMV Bill Analysis, HB 349

3. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill creates s. 319.30 (8)(F), F.S., giving DHSMV specific rule-making authority to administer and enforce this program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 6, 2008, two amendments were adopted by the Infrastructure Committee. The first amendment changed the definition of "Certificate of title" to authorize electronic titles, and the second amendment changed the effective date to October 1, 2008. The bill was reported favorably with the amendments.

On April 18, 2008, HB 349 was heard by the Economic Expansion and Infrastructure Council. One amendment was adopted by the council. The amendment deleted a reference to "licensed" salvage motor vehicle dealers and conformed the bill to the Senate companion. The bill was reported favorably as a council substitute.